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Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Safeguards

Working paper submitted by the Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

1. The Group of Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons expresses its strong concern at the growing resort to unilateralism and unilaterally imposed prescriptions and, in this context, strongly underlines and affirms that multilateralism and multilaterally agreed solutions, in accordance with the Charter of the United Nations, provide the only sustainable method of addressing disarmament and international security issues. In this regard, the Group underlines that the multilateral mechanism established by the International Atomic Energy Agency (IAEA) is the most appropriate way to address verification and safeguards issues. At the same time, the Group emphasizes that the work of the Agency with regard to safeguards and verification has to be conducted in accordance with the provisions of its statute and safeguards agreements.

2. The Group of Non-Aligned States Parties to the Treaty stresses the importance of the IAEA safeguards system and urges all States that have yet to bring into force comprehensive safeguards agreements to do so as soon as possible, in order to achieve the universality of comprehensive safeguards. The 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons considered the universality of comprehensive safeguards as a main objective in order to consolidate and enhance the verification system for the non-proliferation regime. However, in the view of the Group, additional measures related to safeguards shall not affect the rights of the non-nuclear-weapon States parties to the Treaty, which are already committed to the non-proliferation of nuclear weapons and have renounced the nuclear-weapon option. The Group further stresses that efforts aimed at nuclear non-proliferation must be parallel to simultaneous efforts aimed at nuclear disarmament.

3. The Group of Non-Aligned States Parties to the Treaty emphasizes that strict observance of and adherence to IAEA comprehensive safeguards and the Treaty are a condition for any cooperation in the nuclear area with States not parties to the Treaty, or for any supply arrangement with such States for the transfer of source or special fissionable material, or equipment or material specially designed or prepared for the processing, use or production of special fissionable material. The Group of Non-Aligned States Parties to the Treaty confirms that all States parties to the Treaty

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shall refrain from the transfer of nuclear technology and materials to States not parties to the Treaty unless those conditions are met.

4. The Group of Non-Aligned States Parties to the Treaty calls upon all States not parties to the Treaty to accede, without any further delay or preconditions and as non-nuclear-weapon States, to the Treaty and to place all their nuclear facilities under IAEA full-scope safeguards.

5. The Group also calls upon the nuclear-weapon States to undertake to accept full-scope safeguards. This is to be set forth in an agreement to be concluded with IAEA in accordance with its statute, for the exclusive purpose of verifying the fulfilment of the obligations of the nuclear-weapon States assumed under this Treaty. In the view of the Group of Non-Aligned States Parties to the Treaty, such an agreement would be concluded with the aim of:

(a) Ensuring full compliance with the obligations assumed under article I of the Non-Proliferation Treaty;

(b) Providing baseline data regarding the fulfilment of obligations on nuclear disarmament and preventing further diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices;

(c) Strictly observing the prohibition of the transfer, which is inconsistent with the provisions, the object and the purpose of the Treaty, of any nuclear-related equipment, information, materials and facilities, resources or devices and the extension of assistance in the nuclear scientific or technological fields to States not parties to the Treaty, without exception.

6. The Group of Non-Aligned States Parties to the Treaty confirms that the obligation under article III of the Treaty to verify the peaceful nature of nuclear programmes provides credible assurances enabling States parties to engage in the transfer of nuclear equipment, materials and technology for peaceful purposes, in accordance with article IV of the Treaty. Therefore, States parties to the Treaty are called upon to refrain from imposing or maintaining any restrictions or limitations on the transfer of nuclear equipment, materials and technology to States parties with comprehensive safeguards agreements.

7. The Group of Non-Aligned States Parties to the Treaty fully recognizes that IAEA, an independent intergovernmental, science- and technology-based organization, is the sole competent authority responsible for the verification of the fulfilment of safeguards obligations assumed by States parties under the Treaty, with a view to preventing the diversion of nuclear material and technology from peaceful uses to nuclear weapons or other nuclear explosive devices, as well as the global focal point for nuclear technical cooperation.

8. The Group of Non-Aligned States Parties to the Treaty emphasizes that it is fundamental to make a clear distinction between legal obligations and voluntary confidence-building measures and that such voluntary undertakings shall not be turned into legal safeguards obligations. In this regard, the Group also emphasizes that IAEA shall ensure that it avoids any ultra vires acts that would jeopardize its integrity and credibility. The Group urges States parties to the Treaty to maintain and strengthen the technical character of IAEA consistent with its statute.

9. With respect to the financial aspects of safeguards, the Group of Non-Aligned States Parties to the Treaty believes that the differentiated nature of the financial obligations undertaken by member States of IAEA should be recognized and respected by the Agency in its work.

10. The Group of Non-Aligned States Parties to the Treaty underscores the need to strictly observe the principle of balance between the promotional and other statutory activities of the Agency, in particular verification and safeguards-related activities.

11. The Group of Non-Aligned States Parties to the Treaty underlines the essential responsibility of IAEA to maintain and observe fully the principle of confidentiality regarding all information related to the implementation of safeguards, including reporting, in accordance with the Agency's statute and safeguards agreements. Since the Agency is the only organization that receives highly confidential and sensitive information on the nuclear facilities of member States, and given the undesirable incidents of leaks of such information, the Group emphasizes that the confidentiality of such information shall be fully respected and that the Agency's relevant regime pertaining to the protection of confidential information needs to be further strengthened. Hence, in the view of the Group, safeguards-related confidential information should not be provided in any way to any party not authorized by the Agency.

12. In this context, the Group of Non-Aligned States Parties to the Treaty calls for the implementation of resolution GC(61)/RES/12 on strengthening the effectiveness and improving the efficiency of Agency safeguards, adopted by the General Conference of the Agency at its sixty-first session, in which the General Conference, "stressing the importance of maintaining and observing fully the principle of confidentiality regarding all information related to the implementation of safeguards in accordance with the Agency's statute and safeguards agreements", acknowledged the concerns expressed by the Director General on the need to protect safeguards confidential information within the Secretariat and his announcement of additional measures to protect such information, accordingly urged the Director General "to exercise the highest vigilance in ensuring the proper protection of classified safeguards information" and requested that he "continue to review and update the established procedure for the stringent protection of classified safeguards information".

13. The Group of Non-Aligned States Parties to the Treaty underlines the necessity that the reporting of IAEA on the implementation of safeguards be factual and technically based and reflect appropriate references to the relevant provisions of safeguards agreements, while ensuring the protection of confidential information.

14. The Group of Non-Aligned States Parties to the Treaty stresses the need to strictly observe the provisions of the IAEA statute, including article XII, which outlines the mandate of the Agency to verify compliance with safeguards agreements and, in particular, that any non-compliance has first to be reported by the Agency's inspectors.

15. The Group of Non-Aligned States Parties to the Treaty stresses the statutory role of IAEA in nuclear disarmament, including applying safeguards to nuclear materials derived from the dismantling of nuclear weapons, and recognizes the capability of the Agency to verify nuclear disarmament agreements.

16. The Group of Non-Aligned States Parties to the Treaty expresses its serious concern about certain unilateral politically motivated attempts to hamper States parties from exercising their inalienable rights to develop research, production and use of nuclear energy for peaceful purposes and believes in this regard that interpretations in the application of safeguards shall not be used as a tool to that end. In the view of the Group, article III of the Treaty, while providing for the undertaking by each non-nuclear-weapon State to conclude safeguards agreements with IAEA, is equally explicit in articulating that the implementation of such safeguards shall be "in a manner designed to comply with article IV of this Treaty, and to avoid hampering the economic or technological development of the parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes".